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ILLINOIS COMMERCE COMMISSION

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Cook County State's Attorney,

CHIEF CLERK'S OFFICE

Motion for Stay of Commencement of  
Customer Education and Order Requiring  
NeuStar to Demonstrate that the 847 NPA  
Is, in Fact, Exhausted

ICC Docket No. 01-0066

**REPLY TO COOK COUNTY'S REPONSE TO STAFF'S MOTION TO  
WITHDRAW COMMISSION'S REQUEST TO THE HEARING EXAMINERS TO  
ADDRESS CERTAIN QUESTIONS IN THIS DOCKET AND TO CLOSE THE DOCKET**

The Staff of the Illinois Commerce Commission ("Staff"), by one of its attorneys, submits its reply to the Cook County State's Attorney's Office's ("Cook County") response to Staff's motion asking the Commission to withdraw its request to the Hearing Examiners to address certain questions in this docket and to close the docket. Cook County filed a response in opposition to Staff's motion; Illinois Bell Telephone Company d/b/a Ameritech Illinois ("Ameritech Illinois") and Southwestern Bell Mobile Systems d/b/a Cingular Wireless ("Cingular Wireless") filed responses in support of Staff's motion. As discussed more fully below, Cook County's contentions are wholly without merit and the Commission should grant Staff's motion.

In its motion, Staff established that the Commission's actions of February 15 and 16, 2001, gave Cook County the relief it sought in its motion. Cook County sought a Commission determination that some 29 NXX codes in the 847 NPA considered unassignable by the industry were in fact assignable. The Commission determined that nine NXX codes designated unassignable should be assigned and directed NeuStar to implement that determination. (Mot. ¶ 5). In addition, Cook County asked that consumer education regarding the 224 overlay NPA not begin on February 17, 2001. The Commission directed NeuStar to postpone consumer education until it

has reevaluated the status of exhaust in the 847 NPA. (Id.). Consequently, Staff demonstrated that the only issues for determination in this docket are the ones identified in the Hearing Examiners' ruling of February 15, 2001.

Notwithstanding, Cook County contends that there are "outstanding issues" raised in its motion requesting a stay. (Cook County Response to Staff Motion, at 11). Specifically, Cook County points to "the very relief articulated in the dockets caption, that Neustar [sic] demonstrate that the 847 NPA is, in fact exhausted." (Id. at 14). Cook County is mistaken. Cook County wrongly presumes that simply because it filed a motion requesting that the Commission conduct an inquiry, that a formal inquiry has, in fact, been initiated in a docketed proceeding. To recap, Cook County filed a motion in docket 98-0847, the Hearing Examiners determined that Cook County's motion was not proper in docket 98-0847, they initiated docket 01-0066, and transferred the motion for consideration in the new docket. (Petition for Approval of NPA Relief Plans for the 312, 630 and 773 NPAs, Hearing Examiners' Ruling, ICC Docket 98-0847 (Jan. 24, 2001)). The Commission, however, has not initiated a formal inquiry or investigation into NPA 847 exhaust or ordered NeuStar to demonstrate that the 847 NPA is exhausted in a contested case proceeding.

As Staff informed in its motion, the Commission has directed that NeuStar reevaluate the 847 NPA exhaust outside of this docket and outside of any formal proceeding. (Mot. ¶ 3). In its February 15, 2001 letter to NeuStar, the Commission specifically directed NeuStar to

1. Reclaim NXX codes, if any, from carriers which have not been activated;
2. Withhold additional numbering resources from carriers that fail to provide accurate utilization and forecast data with NeuStar as required by the FCC; and
3. Call upon carriers to review the NXX codes each is holding to determine whether any full NXX codes can be returned.

The Commission did not initiate a formal contested case proceeding to investigate whether the 847 NPA is at exhaust. Cook County identifies no Commission order initiating such an investigation in

a docketed proceeding. Therefore, even assuming Cook County properly requested such an inquiry (which, as shown below, it did not), the Commission determined that any inquiry is to be conducted outside of this docket. Thus, Cook County's debate regarding discovery issues is wholly irrelevant because no formal investigation has been ordered by the Commission for which discovery is appropriate.

That the Commission did not initiate a formal inquiry is unsurprising given Cook County's wholly inadequate basis for justifying one. Cook County contends that it "raised the issue by referencing CUB's Motion to Initiate Reclamation of Unactivated Codes" in its motion for stay. (Cook County Response to Staff Motion, at 12). The "reference" Cook County refers to is one-sentence in an eight-page motion making the following suggestion: "Additionally, in light of the allegations presented in CUB's recent Motion to Initiate Reclamation of Unactivated Codes, the Commission should inquire into whether all conservation methods have been followed. (Cook County Motion for Stay at 5). First, as Staff pointed out in its response to Cook County's motion for stay, the motion by the Citizens Utility Board ("CUB"), the Illinois Attorney General, and City of Chicago referred to by Cook County was not filed with the Chief Clerk's Office. (Staff Response, at 2 n.1). Therefore, no "allegations" exist in a proceeding pending before the Commission for Cook County to support. Significantly, in its verified motion for stay, Cook County itself alleged no facts that would support an investigation into whether "all conservation methods have been followed."

Second, in the status hearing of February 6, 2001, counsel for Cook County, Mr. Heaton, expressly disclaimed that Cook County had any factual basis for requesting that the Commission initiate an investigation into whether codeholders in the 847 NPA were following number conservation requirements. In discussing CUB's motion (which, again, was never filed and was not

even attached to Cook County's motion), Mr. Heaton stated: "Cook County could not support [CUB's motion] because it was not based on knowledge or information that Cook County possessed." (Tr. 24). Moreover, as is plain, Cook County cannot rely on events subsequent to its motion as a basis for claiming that it raised those events or issues in its motion, as it appears to do in its response. (Cook County Response to Staff Motion, at 12).

In fact, the purported "new facts" on which Cook County premised its motion relate solely to the so-called protected codes and customer education. (See Cook County Motion for Stay, at 4, 6 (discussing meeting of January 11-12, 2001); Tr. 24-25). Indeed, as Cook County's actions in furtherance of its motion have demonstrated, the relief sought in its motion concerned unassigned codes and the start of customer education. A review of the transcript in this docket reveals no action by Cook County in furtherance of its unsupported suggestion that the Commission inquire into whether all conservation methods have been followed. Rather, as discussed above, Cook County has disclaimed any such suggestion. (See Tr. 24). Furthermore, the three questions in the Hearing Examiners' ruling of February 15, 2001 cannot be used by Cook County to support its contention. Those questions concern issues of reclamation. Counsel for Cook County has expressly denied that Cook County's motion requested that the Commission initiate a proceeding to reclaim NXX codes in the 847 NPA. (Tr. at 23 ("Mr. Heaton: Mr. Examiner, I just want to make clear the motion that Cook County filed does not request reclamation.")). Thus, Cook County's contention that the Commission's actions of February 15 and 16 have not given it the relief it sought in its motion is wholly without merit.

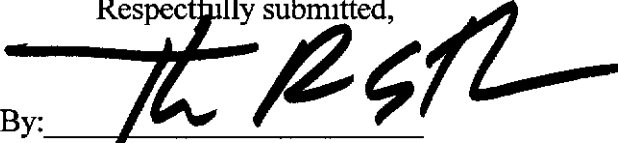
Finally, regarding the questions in the Hearing Examiners' February 15, 2001, ruling, Cook County identifies no legal impediment (nor could it) that would prohibit the Commission from withdrawing the questions directed to the Hearing Examiners and closing this docket. In its

motion, Staff established that the questions are best addressed to Staff outside of this docket. Staff explained that it is currently reviewing the issues surrounding NXX code exhaust in NPA 847 and is best positioned to answer the questions posed by the Commission. (Staff Mot. ¶¶ 7-8). Staff also explained that the questions concern reclamation issues that are best addressed outside of a formal docket. (Id. ¶ 8). Cook County simply ignores these reasons and asserts without explanation that the questions are best answered in a formal proceeding. (Cook County Response to Staff Motion, at 14). For the reasons already explained by Staff, and those identified by Ameritech Illinois (pp. 1-2) and Cingular Wireless (pp. 1-2) in their responses, there is no merit to Cook County's assertion.

### CONCLUSION

For all of the foregoing reasons, Staff's motion should be granted.

March 15, 2001

Respectfully submitted,  
  
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STATE OF ILLINOIS

ILLINOIS COMMERCE COMISSION

Cook County State's Attorney	)	
	)	
Motion for Stay of Commencement of	)	ICC Docket No. 01-0066
Customer Education and Order	)	
requiring NeuStar to Demonstrate that	)	
the 847 NPA Is, in Fact, Exhausted	)	

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NOTICE OF FILING

To: **Attached Service List**

**YOU ARE HEREBY NOTIFIED** that I have, on the 15<sup>th</sup> day of March, 2001, forwarded to the Chief Clerk of the Illinois Commerce Commission, for filing in the above-captioned docket, the Staff's Motion to Withdraw Commission's Request to the Hearing Examiners to Address Certain Questions in this Docket and to Close the Docket, copies of which are hereby served upon you.



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CERTIFICATE OF SERVICE

**I HEREBY CERTIFY** that copies of the foregoing Notice, together with the documents referred to therein, were served upon the parties on the attached Service List, by first-class mail, proper postage prepaid from Chicago, Illinois, on this 15<sup>th</sup> day of March, 2001.



Thomas R. Stanton

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